



Cynulliad Cenedlaethol Cymru **The National Assembly for Wales**

Y Pwyllgor Plant a Phobl Ifanc **The Children and Young People Committee**

Dydd Mercher, 19 Mehefin 2013
Wednesday, 19 June 2013

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Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd
Motion under Standing Order No. 17.42 to Resolve to Exclude the Public

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal,
cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Angela Burns	Ceidwadwyr Cymreig Welsh Conservatives
Keith Davies	Llafur Labour
Rebecca Evans	Llafur Labour
Ann Jones	Llafur (Cadeirydd y Pwyllgor) Labour (Chair of the Committee)
Bethan Jenkins	Plaid Cymru The Party of Wales
David Rees	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales

Eraill yn bresennol
Others in attendance

Leighton Andrews	Aelod Cynulliad, Llafur (Y Gweinidog Addysg a Sgiliau) Assembly Member, Labour (Minister for Education and Skills)
Andrew Clark	Dirprwy Gyfarwyddwr yr Is-adran Addysg Bellach a Phrentisiaethau, Llywodraeth Cymru Deputy Director Further Education and Apprenticeship Division, Welsh Government
Grace Martins	Uwch Gyfreithiwr, Llywodraeth Cymru Senior Lawyer, Welsh Government

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Stephen Davies	Cynghorydd Cyfreithiol Legal Adviser
Steve George	Clerc Clerk
Olga Lewis	Dirprwy Glerc Deputy Clerk
Anne Thomas	Y Gwasanaeth Ymchwil Research Service

Dechreuodd y cyfarfod am 10.30 a.m.
The meeting began at 10.30 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Ann Jones:** Good morning, everybody. Welcome to the Children and Young People Committee. We have been in private session. We all know the housekeeping rules, which are still the same. We have had apologies from Lynne Neagle and Suzy Davies today, and there are no substitutions.

10.31 a.m.

**Y Bil Addysg Bellach ac Uwch (Llywodraethu a Gwybodaeth) (Cymru): Cyfnod
1—Sesiwn Dystiolaeth 9**
**Further and Higher Education (Governance and Information) (Wales) Bill:
Stage 1—Evidence Session 9**

[2] **Ann Jones:** Our first item is to scrutinise the Minister again in our final session on the Further and Higher Education (Governance and Information) (Wales) Bill. Welcome to the Minister and his officials. Minister, because it is a legislative process, will you introduce yourselves and your officials for the record?

[3] **The Minister for Education and Skills (Leighton Andrews):** I am Leighton Andrews, Minister for Education and Skills, and I suggest my officials introduce themselves.

[4] **Mr Clark:** I am Andrew Clark, deputy director of further education and apprenticeships division.

[5] **Ms Martins:** I am Grace Martins from legal services.

[6] **Ann Jones:** Thank you very much. As I said, this is the final session before we look at the key issues that have been emerging. Some of the questions will be based on what we have heard during the evidence. David, you are going to start off with the first set of questions.

[7] **David Rees:** Good morning, Minister. I will start by going back to the basics. You originally told us that the emphasis, purpose and the main driver of this Bill was the reclassification by the Office for National Statistics. May I clarify whether you would have undertaken these changes without that driver being in place?

[8] **Leighton Andrews:** No.

[9] **David Rees:** That was a very simple answer. The ONS has indicated in its letter that it is satisfied that the Bill currently allows it to reclassify, as long as no other non-legislative public sector controls are in place. Have you had discussions with the ONS to clarify what those might be, and are you ensuring therefore that they are not in place?

[10] **Leighton Andrews:** We are clear that there are changes that we would need to institute in terms of the financial memorandum. We discussed this with the Finance Committee last week, if I remember rightly. Andrew, have we specifically talked through the controls with the ONS?

[11] **Mr Clark:** We have shared our existing controls with the ONS, and there are one or two places where it has indicated that they would need to be changed.

[12] **David Rees:** You will ensure that this information is clearly available as stages progress.

[13] **Mr Clark:** We are in the process of commencing that redrafting.

[14] **Leighton Andrews:** I am perfectly happy, Chair, to share those proposed changes with the committee as we work our way through this. I do not see any problem with that at all.

[15] **David Rees:** Moving on now, I raised concerns about Schedule 1 and who would approve the initial articles and instruments of government and subsequent amendments to that. Would the appointment of an independent regulator, to ensure that any articles and

instruments of government and any modifications are initially approved, be a problem for the ONS? I am concerned about who technically approves changes that could be made willy-nilly, effectively.

[16] **Leighton Andrews:** It might not be a problem for the ONS, but it would be a problem for me.

[17] **David Rees:** So, you would not want a regulator.

[18] **Leighton Andrews:** I am not prepared to spend money on a regulator when I do not think I need one. The reality is that our budgets are under extraordinary stress and they are likely to get worse as a result of the actions of the Conservative-Liberal Democrat administration in Westminster. I do not want to spend money on regulatory structures that I do not believe we need.

[19] **David Rees:** Do you therefore believe that your department can do that job?

[20] **Leighton Andrews:** Yes.

[21] **Simon Thomas:** Rydym wedi derbyn tystiolaeth eich bod yn chwilio am yr hawl rheoleiddio sydd eisoes gan Weinidogion San Steffan yn y maes elusen. A ydych chi'n gwneud hynny, a sut mae hynny'n ffitio mewn i'r Bil fel y mae o safbwynt rheoleiddio? **Simon Thomas:** We have received evidence that you are looking for the right to regulate, which Westminster Ministers already have in the charity field. Are you doing that and how does it fit into the Bill as drafted from the point of view of regulation?

[22] **Leighton Andrews:** Governing bodies would not be able to make changes to the instruments and articles of government of any FE institution that would result in them ceasing to be a charity. So, they would continue to be registered or exempt charities and there would be conditions therefore on the use of assets. So, in a sense, nothing has changed in that regard.

[23] **Simon Thomas:** You want to exercise those powers in Wales, rather than Westminster Ministers having them. Is that correct?

[24] **Leighton Andrews:** The issue here is that they will be subject to the Charity Commission, which acts on an England and Wales basis in any case.

[25] **Simon Thomas:** Some of these are exempt, are they not? They do not have the Charity Commission, as such.

[26] **Mr Clark:** I am afraid that I do not have the detail on that.

[27] **Leighton Andrews:** If you want to formulate a specific question on this point, because it could be important, I am happy for us to come back to you on it, but I would like it to be precise if that is okay?

[28] **Ann Jones:** Okay. We will formulate a question.

[29] **Simon Thomas:** I just want to be clear. I think we had evidence from Colegau Cymru that you or the Welsh Government were looking for these particular powers. I am asking this because it relates to regulation and because we know that regulation and control are two things that we need to keep apart in order to make sure that this Bill works.

[30] **Leighton Andrews:** Indeed, but what we are looking for is on the face of the Bill. I

am not sure what your point is, other than what we have put on the face of the Bill.

[31] **Simon Thomas:** Okay.

[32] **Ann Jones:** We can discuss that and seek further clarification if necessary.

[33] **David Rees:** On the issue of the articles and the code of governance that you are taking about, who will you be involving in your discussions with establishments, and when will you have those ready?

[34] **Leighton Andrews:** The discussion on the code of governance will be led by ColegauCymru, which will need to engage with other stakeholders as they go forward with those discussions. Clearly, we will want to see that it has been engaged with stakeholders, including representatives of staff and students, obviously.

[35] **David Rees:** To clarify, is it appropriate that an organisation that is going to implement the code of governance is the one that is creating it?

[36] **Leighton Andrews:** They are not implementing it, are they? In a sense, the code of governance is one that will be implemented by individual further education institution governing bodies. So, what you have is the trade body for the colleges sector putting in place what would be best practice. Clearly, we will have some input into that process as well.

[37] **Keith Davies:** Ar ôl cyhoeddi'r Papur Gwyn, fe ofynnodd Cofrestrfa'r Tir rai cwestiynau am ddiddymu. Felly, pam na chafodd rheoliadau drafft ynghylch diddymu eu cyhoeddi yr un pryd â'r Bil?

Keith Davies: Following the publication of the White Paper, the Land Registry asked some questions about dissolution. Therefore, why were draft regulations relating to dissolution not published at the same time as the Bill?

[38] **Leighton Andrews:** We will be consulting with stakeholders on the draft regulations and will ensure that the Land Registry is included in the list. There were no changes needed to the law relating to land registration in consequence of the Bill, however.

[39] **Keith Davies:** Pan ddaeth cynrychiolwyr undeb yma, dywedon nhw eu bod nhw'n credu ein bod yn newid pethau er mwyn dilyn Lloegr. Cawsom enghreifftiau wedyn o'r hyn oedd wedi digwydd yn Lloegr, yng Ngrŵp Colegau Newcastle, rwy'n credu, lle'r oedd arno arian sylweddol oherwydd ei fod wedi prynu cwmni preifat. Pam ydym ni yn gwneud hyn? A ydym ni'n gwneud hyn oherwydd, fel y mae'r undebau'n ei ddweud, ein bod eisiau dilyn beth sydd wedi digwydd yn Lloegr?

Keith Davies: When union representatives came here, they told us that they believed we were changing things in order to follow England. We then had examples of what had happened in England, in the Newcastle College Group, I think, where it owed a substantial sum of money because it had bought a private company. Why are we doing this? Are we doing this because, as the unions said, we want to follow what has happened in England?

[40] **Leighton Andrews:** No, not at all. We are doing this because if we do not do it, bluntly, there will be a capital cost to the Welsh Government of £20 million that we will have to find from our overall budgets, and that will fall across the sector, of course. I do not want us to be in that position. I have been absolutely candid about this—I would rather not be going down this route, but, given what ONS has said to us, we have no option if we are to protect the budgets of the Welsh Government at a time of difficult financial stress.

[41] **Keith Davies:** Pwynt arall gododd yr **Keith Davies:** Another thing that the unions

undebau oedd a fyddai colegau yn gorfod dilyn Mesur y Gymraeg (Cymru) 2011. raised with us was whether colleges would have to follow the Welsh Language (Wales) Measure 2011.

[42] **Leighton Andrews:** I do not think anything has changed in that regard at all by this Bill. I have had evidence from the University and College Union, but I have not seen anything—let me be careful here: I do not believe that I have seen anything from it on this point. If it has put it to you, that is interesting. However, I fail to see how this Bill changes the situation with regard to the Welsh language.

[43] **Keith Davies:** Y peth olaf ofynnwn nhw oedd a fyddent yn asedau cyhoeddus ar ôl y Bil. **Keith Davies:** The final thing that they asked was whether they would be public assets after the Bill.

[44] **Leighton Andrews:** I think that that depends on your definition of ‘public’. Bear in mind that the status of FE colleges was changed through the process of incorporation some time ago, and what we are doing here is changing the status of FEIs back to not-for-profit institutions serving households. So, they are not-for-profit institutions. They will be charitable assets, and we have explained the process there. So, I think that it will rather depend on your interpretation of the word ‘public’, but they would certainly be not for profit.

[45] **Keith Davies:** Os byddant yn breifat, roedd yr undeb yn dweud—i fynd yn ôl at yr hyn sydd wedi digwydd yn Lloegr—maent yn prynu cwmnïau preifat yn Lloegr ac mae’r rheini’n colli arian. Byddai hynny’n cael effaith ar asedau’r colegau a’r cyllid sydd ganddynt. Sut gallwn sicrhau na fydd colegau yn buddsoddi mewn nifer o gwmnïau preifat? **Keith Davies:** If they are private, the union says that—going back to what has happened in England—they buy private companies in England and those are losing money. That would have an impact on the assets of colleges and the funding that they have. How can we ensure that colleges do not invest in lots of private companies?

[46] **Leighton Andrews:** They are already investing under current law in private companies. Neath Port Talbot College is an example of that. It has invested in a business that is profitable. That happens regardless. This Bill changes nothing in that regard whatsoever.

[47] **Aled Roberts:** Weinidog, rydych wedi dweud eisoes, wrth ymateb i David Rees, eich bod yn barod i rannu’r memorandwm cyllidol a phethau felly. Rydym wedi derbyn copi o’r llythyr at eich adran, dyddiedig 7 Mehefin, sy’n dweud bod gan y pwyllgor *national accounts classification* fân bryderon o hyd ynghylch pwerau Gweinidogion Cymru i ymyrryd o dan adran 57 o’r Ddeddf. Mae’n sôn ei fod yn disgwyl cael rhyw fath o ddatganiad ysgrifenedig gan Lywodraeth Cymru er mwyn iddo fod yn fodlon â’r sefyllfa. A fydech yn barod i rannu’r datganiad ysgrifenedig hwnnw gyda’r pwyllgor er mwyn inni gymryd safbwynt arno? **Aled Roberts:** Minister, you have already told us, in response to David Rees, that you are willing to share the financial memorandum and so forth. We have had a copy of the letter to your department, dated 7 June, which says that the national accounts classification committee still has some small concerns about the Welsh Ministers’ powers to intervene under section 57 of the Act. It expects to have some sort of a written statement by the Welsh Government in order to be satisfied with the situation. Would you also be willing to share that written statement with the committee, so that we can take a position on it?

[48] **Leighton Andrews:** I do not have any problem with sharing a draft written statement with you on that issue.

[49] **Angela Burns:** I have a couple of quick questions about the powers of intervention

that will be available to you under this Bill, just to ensure that you still believe that you have the right balance between being able to intervene if a college starts getting into difficulty and stepping back far enough to satisfy ONS. If FEIs get into trouble, as has recently happened with Coleg Harlech, how will you ensure that public funding and the needs of learners are protected? As a secondary question, what safeguards are in place to ensure that public funds going to colleges are not transferred from colleges into any of their privately owned subsidiaries?

[50] **Leighton Andrews:** First, on the last point, there is a big issue about transparency. We would expect there to be engagement by the governing body on that. We would expect the institutions to share information with us through their accounts. They would have to report. They would still be subject to audit. They would have to go through all those means and that would require them to demonstrate the way in which they are using their funds.

[51] In respect of powers of intervention, we have considerable powers of intervention if we think that there is mismanagement of an institution or if it has failed to discharge any of its obligations or if it has broken an agreement.

[52] **Angela Burns:** You made a statement on 23 April in which you referred specifically to Coleg Harlech's situation. You said that the Welsh Government

[53] 'will support the merger arrangements if the college's updated recovery plan can demonstrate that it is in a strong enough position to do so. If appropriate the merger process will be designed to address any further issues'

[54] et cetera. Are you confident that that support will not cross the boundary that would cause ONS any difficulties?

[55] **Leighton Andrews:** Yes.

[56] **Simon Thomas:** The first time that you gave evidence to this committee, we asked you what other things were in place to ensure that colleges, if they went along this way, would be performing in the public interest, if you like. You named a few things, such as naming and shaming and financial controls and agreements. Having gone through the process, do you have any reason to change what you said at that stage? Do you still believe that you have the correct things in place and that none of them will trespass on what the ONS thinks regarding your controls, changing the way in which it views colleges?

10.45 a.m.

[57] **Leighton Andrews:** I am confident of that, yes.

[58] **Ann Jones:** We will move on to the ONS decision to reclassify.

[59] **Bethan Jenkins:** We heard earlier from David Rees that you committed to look back at the financial memorandum with regard to borrowing. We look forward to seeing that detail. I want to ask a question that I have asked previously. With regard to England, we understand that the thought process behind the changes was less to do with the ONS reclassification and more to do with the general policy thinking with regard to deregulation in the education system. Scotland is intent upon seeking to continue the process as it is, but mitigating the effects on Scottish institutions. Have you raised any questions with the Treasury with regard to the situation in Wales? If not, has your colleague Jane Hutt, who has responsibility for finance, done so? Have you considered any crossover work with Scotland with regard to approaching the Treasury on this important issue?

[60] **Leighton Andrews:** I am always open to having a chat with Mike Russell in Scotland, but we are very clear as to what the answer from the Treasury would be; the rules are very clear. We discussed this in the Finance Committee last week, as you will recall, Chair. I do not think that anything is going to be changed by a conversation with Treasury. We are very clear about that. I do not think that it is any surprise to this committee if I say that Scotland is funded in such a way that it has slightly more flexibility in these matters than we do.

[61] **Bethan Jenkins:** So, just to clarify, you have not contacted the Treasury—

[62] **Leighton Andrews:** I have not and I have no intention of doing so.

[63] **Bethan Jenkins:** Okay, fair enough. I want to understand more about the reserves issue. Have you explored with the Treasury—well, you have not explored with the Treasury, but I will ask it anyway—whether it would be prepared to allow greater carry-over of reserves by FECs to allow them to build up reserves for future investment? If not, can you explain why?

[64] **Leighton Andrews:** I think that we know what the answer from the Treasury would be. I think that Scotland probably knows what the answer would be as well.

[65] **Bethan Jenkins:** If the Bill did not proceed, would college reserves be returned to the Welsh Government? Could these reserves then be reinvested in the further education sector by the Welsh Government?

[66] **Leighton Andrews:** Again, we went through this in some detail in the Finance Committee. The reality of this is that, if we do not make changes, we will have to take responsibility, if you like, for the balances of the colleges, whether they are in deficit or surplus. We think that this would ultimately lead to a situation where our overall capital budgets will reduce by around £20 million. We have given quite a lot of detail on this to the Finance Committee in the memoranda that we have submitted to it. If this committee has not seen them, we are happy to supply those to you.

[67] **Ann Jones:** That would be helpful, because Members have not seen them. I was on the committee, but Members need to see that. We will make arrangements for that. I move to David on this point.

[68] **David Rees:** To follow on from Bethan Jenkins's point, you made it quite clear that you do not intend to speak to the Treasury. Will you be speaking to your counterpart in Scotland to see if there is progress in relation to what the situation is? It is a major issue. If it is going to be given to Scotland, why are we being treated differently?

[69] **Leighton Andrews:** I have seen no evidence whatsoever to suggest that Scotland is going to get anything different. Please demonstrate to me that the situation is going to be different in Scotland. I do not believe that it is. I am not even sure that Scotland is—well, I cannot speculate on what Scottish Ministers' objectives may be in this regard, but I might well talk to Mike about them.

[70] **Ann Jones:** We will move on to the implications of the Bill for learners, local communities and FE staff. We will go to Rebecca first.

[71] **Rebecca Evans:** We have had five specific suggestions from witnesses of things that could strengthen the Bill in terms of implications for learners, local communities and staff. If I run through each of the five, perhaps you could indicate whether or not you would be prepared to support an amendment to that effect, or perhaps bring forward a Government

amendment. The first is that at least two members of a governing body should be students at the institution.

[72] **Leighton Andrews:** That is what we have demonstrated that we support. I am willing to consider any amendments that do not undermine the purpose of the Bill in respect of the ONS reclassification.

[73] **Rebecca Evans:** I will let you know what the others are: that student members should be elected; that any staff member of the governing body should be nominated by the staff of the institution; that the governing body should include members nominated by employers; and that governing bodies should be subject to a duty to consult with local learners and businesses. Do any of those give you any concerns?

[74] **Leighton Andrews:** Again, it would depend on the formulation of any amendment. As I said, I would be willing to consider amendments that did not change the basic aim of the Bill in terms of the ONS reclassification. For example, it would not be our view that staff members should include the chief executive of an institution, even though they are technically staff—that could be clarified.

[75] **Bethan Jenkins:** O ran y goblygiadau i staff addysg bellach, a ydych yn credu bod amodau arian grant presennol yn caniatáu i Weinidogion reoli a yw corfforaethau addysg bellach yn derbyn cytundeb cyflogau cenedlaethol, ac, os ydynt, sut mae'r amodau ariannol yn gwneud hynny?

Bethan Jenkins: As regards the implications for further education staff, do you believe that current grant funding conditions allow Ministers to control whether further education corporations accept a national pay agreement, and if so, how do the funding conditions do that?

[76] **Leighton Andrews:** I would be hesitant to use the word 'control', which was used by the translator, for reasons that you will understand from your previous session. I do not think that there is anything in the Bill that changes the situation with regard to the national pay agreement. The reality is that colleges adhere to the national pay agreements. I think that the ONS understands the objectives that we have here and the letter to us says explicitly that it is content that the current wording does not amount to public sector control of the remuneration at Welsh FECs and that the size of the budget penalty is merely a way of incentivising without forcing FECs to follow up the national pay agreements. In a sense, that demonstrates that we have this area covered.

[77] **Bethan Jenkins:** Rwy'n derbyn hynny ond a ydych yn credu y bydd hyn yn wir yn y dyfodol os bydd newid? Os bydd rhai colegau sy'n gwrthod cydymffurfio â'r cytundeb cenedlaethol, a fyddech chi, fel Gweinidog, yn ystyried eu cosbi mewn unrhyw ffordd i sicrhau y bydd y colegau hynny yn cadw at eu gair yn hynny o beth?

Bethan Jenkins: I accept that but do you think that that will be true in the future if there is change? If some colleges refuse to conform to the national agreement, would you, as Minister, consider penalising them in any way to ensure that those colleges keep their word in that sense?

[78] **Leighton Andrews:** If we are providing money for them to fulfil the obligations of a national pay agreement and they fail to do so, it is open to us to take the money away.

[79] **Bethan Jenkins:** A fyddai hynny'n amharu ar sut y mae'r ONS yn gweld y sefyllfa, lle bo'r Gweinidog yn cael mwy o rym efallai?

Bethan Jenkins: Would that effect the way in which the ONS views the situation whereby more power is given to the Minister?

[80] **Leighton Andrews:** Not according to the ONS's letter.

[81] **Simon Thomas:** Mae'r llythyr sydd gennych gan yr ONS, rwy'n cymryd, yn ymwneud â'r sefyllfa bresennol, lle rydych yn amrywio o ryw 1.5%, rwy'n meddwl, o ran yr amodau cenedlaethol. Os aiff y Bil drwyddo, mae hyn mwy neu lai yn eich cyfyngu i'r lefel honno o gymhelliad. Nid oes llawer mwy o le i fynd ymhellach na hynny. A yw hwnnw'n ddehongliad cywir?

Simon Thomas: I assume that the letter that you have from the ONS relates to the current situation where I think that you vary by about 1.5%, I think, with regard to national conditions. If the Bill goes through, that more or less restricts you to that level of incentive. There is not much room to go much further than that. Is that a fair interpretation?

[82] **Leighton Andrews:** It is important that Members should look at what is in the ONS letter. That is pretty clear and gives us considerable scope.

[83] **Simon Thomas:** Therefore, are you satisfied with the scope that you have?

[84] **Leighton Andrews:** Yes.

[85] **David Rees:** One of the issues that has been raised is the ability of FE colleges to create subsidiary companies, which are effectively separate organisations that are technically under their control. What will the Welsh Government's view be if we see a lot of those appearing and conditions of employment for the staff employed in those companies being dramatically different from the FEC?

[86] **Leighton Andrews:** You are asking me to speculate, which I do not like to do, David. I think that we would have a view but I would want to formulate that view in the context of whatever transpires. The real question is: do I expect that to transpire? The answer is 'no'.

[87] **Simon Thomas:** Hoffwn ddechrau gyda'r rhan sy'n ymwneud â rhannu data. A oes gennych unrhyw beth pellach i'w ddweud i ychwanegu at y dystiolaeth a gawsom gennych chi yn y lle cyntaf yn y fan hon? Mae'n edrych yn weddol dechnegol. A ydych chi'n hapus â'r amserlen a phopeth sy'n ymwneud â hynny?

Simon Thomas: I would like to start with the part that relates to data sharing. Do you have anything further to add since we had evidence from you in the first place about this? It looks quite technical. Are you happy with the timetable and everything that is involved in that?

[88] **Leighton Andrews:** I am happy with the timetable. Do I have anything further to add? Yes. You asked me last time whether I thought it would help with tracking fraud, essentially, and I said that I was not sure and that we would check. The answer is: no, we do not think that it makes any difference to that. Again, we went through that in detail with the Finance Committee, so it is on the record.

[89] **Simon Thomas:** Diolch am hynny. Hoffwn droi at yr ail ran sydd efallai yn ymwneud â pholisi. Mae adran 7 o'r Bil yn tynnu ymaith yr hawl sydd gennych ar hyn o bryd i reoleiddio cyrsiau addysg uwch mewn colegau addysg bellach. O graffu ar yr hyn a ddigwyddodd yn Lloegr ac o gofio bod yr hyn a ddigwyddodd yn Lloegr wedi arwain at ailddosbarthu'r colegau yn Lloegr, nid oedd y rhan hon yno. Hynny yw, rwy'n cymryd bod

Simon Thomas: Thank you for that. I would like to turn to the second part that is more related to policy. Section 7 of the Bill takes away the rights that you have at the moment to regulate higher education courses in further education colleges. From scrutinising what happened in England and bearing in mind that what happened in England led to the reclassification of the colleges in England, this part was not there. That is, I

gan Weinidogion yn Lloegr yr hawl, o hyd, i reoli cyrsiau addysg uwch mewn sefydliadau addysg bellach. Na? Rwy'n gweld efallai nad yw hyn yn gywir. Hoffwn wybod beth bynnag pam yn benodol yr ydych wedi bwrw ymlaen â hyn ac a yw hynny yr un peth â'r hyn sy'n digwydd yn Lloegr.

take it that Ministers in England still have the power to regulate higher education courses in further education institutions. No? I see that maybe that is not correct. I would like to know anyway why specifically you have proceeded with this and whether it is the same as what happens in England.

[90] **Leighton Andrews:** Andrew, do you want to answer this?

[91] **Mr Clark:** Essentially, we are taking away powers that are not being used at the moment and we are not aware of any issue that would result in those powers being used today.

[92] **Simon Thomas:** So, you are saying that the powers are redundant.

[93] **Mr Clark:** They have never been used and we cannot think of a situation in which they would be used. Therefore, why are they needed?

[94] **Simon Thomas:** I know that you have told me before, Minister, that you have powers to use them and it is unusual for you to be giving up powers so voluntarily. *[Laughter.]*

[95] **Ann Jones:** A change of heart.

[96] **Simon Thomas:** The point that I am trying to get to—

[97] **Leighton Andrews:** Sorry; was there a question there? *[Laughter.]*

[98] **Ann Jones:** No, it was a comment.

[99] **Simon Thomas:** The point that I am trying to get to is that it does not strike me, from looking at what is happening in England—I might be wrong—that giving up these powers is necessary for the reclassification. In other words, this is a policy decision by you. It might be because you do not feel the need for these powers, but it is not necessary for reclassification. So, is there a bit more thinking going on here, or is it simply, 'I have never used these powers, therefore, I will voluntarily give them up'?

[100] **Leighton Andrews:** I have never used these powers, but I will go away and reflect on what you have said.

[101] **Ann Jones:** Right, okay. That is good. David is next.

[102] **David Rees:** In relation to the higher education provision in FE colleges, currently Estyn is one of the ways in which we inspect colleges and that adds to the quality assurance mechanisms that are in place. In higher education, the Quality Assurance Agency for Higher Education does that on behalf of the Higher Education Funding Council for Wales at the moment, but I know that you are talking about transferring those powers to HEFCW. How does the quality assurance mechanism now work in FE colleges for higher education courses?

[103] **Leighton Andrews:** In practice, there is a huge degree of engagement between the further education institutions and HE institutions. If I think about the provision at Bridgend College, for example, when I visited there, it had its partner HEIs there with it. Clearly there is a degree of assurance given through that process on top of other inspection regimes. That is not particularly germane to this Bill, apart from this section, but we would want to look at these issues in the round when we move forward on our future legislation with regard to the

overall governance of the HE sector in Wales.

[104] **David Rees:** That would be dependent upon the HE institution being the validator of the programme, in that case.

[105] **Leighton Andrews:** At the current time it is. It is open to FEIs to apply for degree-awarding status. A number are interested in that, obviously, and have done so. You raise an interesting question here about the commonality of regulation of higher education across different institutions. I would rather think about that, in principle, in the general context of our future legislation, because there are other issues that are starting to arise, for example, through the provision of mass online open courses, and other matters that we might want to consider at that point.

[106] **Simon Thomas:** To come back on that, it is an interesting point, Minister, and it leads me back to my earlier point. It suggests to me that it might be a power that you have never used and you are willing to give up at the moment, but it is a power that you might want to think about retaining, due to the changes that are happening and the need for some changes on quality assurance, going forward, as well.

[107] **Leighton Andrews:** Let me go away and reflect on this, because it is an interesting discussion and we can return to it at Stage 2. I will go away and discuss this with officials.

11.00 a.m.

[108] **Ann Jones:** Are there any more questions for the Minister? I see that there are not. Thank you very much for coming back to us. That is the end of the session. You know that you will get a copy of the transcript to check for accuracy. There are a couple of points that I think that you are going to supply us with more information on, and I think that we are going to try to clarify Simon's point, so the clerks will write to you on that.

[109] **Simon Thomas:** The charities.

[110] **Ann Jones:** Yes.

[111] **Leighton Andrews:** That is fine. May I thank you? This is one of the benefits of scrutiny on legislation; it makes us think about things in detail, and so it should.

[112] **Ann Jones:** That is good. Thank you ever so much.

**Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd
Motion under Standing Order No. 17.42 to Resolve to Exclude the Public**

[113] **Ann Jones:** I move that

the committee resolves to exclude the public from the remainder of the meeting and for the meetings on 27 June 2013, 3 July 2013 and 11 July 2013 in accordance with Standing Order Nos. 17.42(ix) and 17.42(vi).

[114] I see that the committee is in agreement.

*Derbyniwyd y cynnig.
Motion agreed.*

Daeth rhan gyhoeddus y cyfarfod i ben am 11.00 a.m.

The public part of the meeting ended at 11.00 a.m.